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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Joey Frank Montoya,

10 Plaintiff,

11 v.

12 Unknown Saeg, et al.,

13 Defendants.
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No. CV-13-01491-PHX-ROS

ORDER

15 On April 8, 2014, Magistrate Judge James F. Metcalf issued a Report and
16 Recommendation (“R&R”) recommending this case be dismissed without prejudice
17 based on Plaintiff’s failure to complete service. (Doc. 17). Instead of objecting to the
18 R&R, Plaintiff filed a motion asking the marshals be instructed to attempt service again.
19 (Doc. 19). Normally, the Court would grant Plaintiff’s request and attempt to complete
20 service. However, in another case also filed by Plaintiff, the Court received notice that
21 Plaintiff’s mailing address is no longer valid. (Doc. 21 in CV-13-1575). Based on that
22 notice, it would be futile to take any further action in this case. *See Carey v. King*, 856
23 F.2d 1439, 1441 (9th Cir. 1988) (“An order to show cause why dismissal was not
24 warranted or an order imposing sanctions would only find itself taking a round trip tour
25 through the United States mail.”). Therefore, the R&R will be rejected and the motion
26 requesting service will be denied. But pursuant to Rule 41(b), this case will be dismissed
27 based on Plaintiff’s failure to keep his address updated.


28 Accordingly,

1 **IT IS ORDERED** the Report and Recommendation (Doc. 17) is **REJECTED**.

2 **IT IS FURTHER ORDERED** the Motion to Re-Serve Defendant (Doc. 19) is
3 **DENIED**.

4 **IT IS FURTHER ORDERED** Clerk of Court shall enter a judgment of dismissal
5 without prejudice.

6 Dated this 2nd day of September, 2014.

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11 Honorable Roslyn O. Silver
12 Senior United States District Judge
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